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Re: **FinCEN Proposing to Take “Special Measures” Against Two Lebanese Money Transmitters**

In yesterday’s Federal Register, FINCEN published a Notice of Findings that two money transmitter organizations were of primary money laundering concern.

See:

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-25/html/2013-09785.htm>

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-25/html/2013-09783.htm>

These entities are the Halawi Exchange and the Rmeiti Exchange (the “Lebanese Money Transmitters”). In connection with this finding, FinCEN is proposing to impose certain special measures on the two companies and their affiliates.

**What are the special measures being proposed?**

Two special measures are being proposed. First, the U.S. parties (all banks and money transmitters registered with FinCEN) covered by the rule must take reasonable steps to collect and report to FinCEN specified information regarding any transaction involving the Lebanese Money Transmitters in which the covered financial institution or principal money transmitter is requested to engage, directly or indirectly. This is required to be done immediately.

. Therefore, FinCEN will require banks to report within 15 days:

(i) The identity and address of the participants in a transaction or attempted transaction, including the identity of the originator and beneficiary of any funds transfer;

(ii) The legal capacity in which the Lebanese Money Transmitters are acting with respect to the transaction or attempted transaction and, to the extent the Lebanese Money Transmitters are not acting on their own behalf, then the customer or other person on whose behalf the Lebanese Money Transmitters are acting; and

(iii) A description of the transaction or attempted transaction and its purpose.

The second part of the special measure requires a covered party to employ “special due diligence” to guard against indirect use of any correspondent account by the Lebanese Money Transmitters. This special due diligence requires sending a notice to account holders where the covered U.S. party “knows or has reason to know” the account holder provides services to the Lebanese Money Transmitters. A record must be kept of these notices. FinCEN has prepared a form of notice that should be used. In addition the covered party must take reasonable steps to identify any indirect use of the account by reviewing the transactional records maintained in the ordinary course of business.

A covered party should adopt a risk-based approach to determine if any other due diligence steps should be taken to prevent indirect use of its accounts by the Lebanese Money Transmitters, based on among other things services provided and location of the account holders.

### **Who has to worry about these special measures?**

Insured banks, commercial banks, U.S. branches and agencies of foreign banks (not representative offices), money transmitters registered with FinCEN, credit unions, savings associations, Edge corporations, trust companies that are federally regulated and have AML programs, most broker-dealers, most FCMs or introducing brokers and mutual funds.

### **What kinds of accounts are covered?**

Only correspondent accounts which are accounts established for foreign banks to receive deposits from, make payments on behalf of, or handle other financial transactions related to the foreign bank.

### **How can you determine if a correspondent account holder is indirectly helping the Lebanese Money Transmitters?**

FinCen believes that current software used to scan transactions can be easily and inexpensively modified to screen transactions to identify any indirect use of the accounts by the Lebanese Money Transmitters.

### **What should Compliance be doing to comply with this rule?**

A covered party needs to determine who should receive the notice referred to above and then keep track of who received the notice. There has to be a procedure to follow to do this. A covered party has to determine whether there has been any indirect use of accounts by the Lebanese Money Transmitters. Again there needs to be a policy and procedure to follow to effect this requirement. A covered party needs to consider whether any other due diligence is warranted to prevent indirect use. This requires a procedure. Lastly a procedure is needed to govern what to do if indirect use is detected.

R.C.A.